

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2001-487-W - ORDER NO. 2003-66  
FEBRUARY 5, 2003

IN RE: Petition of Dowd Water Systems, Inc. for	)	ORDER APPROVING
Approval to Abandon the Water System in the	)	CONDITIONAL
Isle of Pines Subdivision, Lexington County,	)	ABANDONMENT AND
South Carolina.	)	ESTABLISHING RULE
	)	TO SHOW CAUSE

This matter comes before the Public Service Commission of South Carolina (the Commission) on a request for abandonment of the Isle of Pines water system, which is owned and operated by Dowd Water Systems, Inc. (Dowd or the Company). Pursuant to the instructions of the Commission's Executive Director, the Company published a Notice of Filing in a newspaper of general circulation, and notified all customers by mail of the request to abandon. The South Carolina Department of Health and Environmental Control (DHEC) filed a Petition to Intervene.

A hearing was held on this matter on January 16, 2003, in the offices of the Commission. The Honorable Mignon Clyburn presided. Dowd was represented by David W. Knight, Esquire. The Company presented the testimony of Sue Dowd, President of Dowd Water Systems, Inc., and Johnny T. Johnson, an engineer. DHEC was represented by Mason A. Summers, Esquire. DHEC presented the testimony of Raymond F. Peterson, an Environmental Engineer. The Commission Staff was represented by F. David Butler, General Counsel. The Staff presented no witnesses.

Sue Dowd, the President of the Company, testified in support of abandonment of the Isle of Pines water system. Ms. Dowd noted that she had acquired the Company and therefore the Isle of Pines system after her husband's death. She states that she has no funds to correct various cited DHEC deficiencies with the system (*see* summary of Raymond Peterson testimony below), or to upgrade the water lines, which are in very bad shape. Ms. Dowd states that there are no drawings of where the water lines are located, which makes the lines nearly impossible to locate. Ms. Dowd reviewed the various options available. According to the Force Associates study, the best long term plan was to interconnect with the Town of Chapin. A homeowners association is a possibility but finding funding for improvements prior to transfer to such an association is difficult.

Ms. Dowd notes that without meters and valves, she has no way of controlling leaks. According to Ms. Dowd, leaks may go undetected until the well runs dry. She notes that there is no place to drill another well. Ms. Dowd further states that she cannot continue to operate the system even with the rates granted by the Commission and that she needs to abandon the system and seeks approval to do so in this Docket.

Johnny T. Johnson, an engineer, testified. He stated that the best long term plan was to interconnect the Isle of Pines System with the Town of Chapin. However, the interconnection would cost approximately \$103,000, which includes costs to upgrade the internal infrastructure to bring the system into compliance with Chapin/DHEC standards, to install meters, and to interconnect the system with the nearest water main in the Amicks Ferry Water System near Night Harbor Subdivision. The problem, according to Johnson, is that the nearest water main for the Chapin system is more than one-quarter of

a mile away, and neither Chapin, Dowd Water Systems, Inc., a homeowners association, nor any other person or entity has offered to pay the cost or operate the system.

Raymond F. Peterson of DHEC also testified. Peterson is an Environmental Engineer for the Capacity Development Program within the Water Facilities Permitting Division. Peterson testified that the Company and DHEC entered into a consent order in November, 2001, to address Dowd's failure to operate the Isle of Pines system in compliance with the State Safe Drinking Water Act and the State Primary Drinking Water Regulations. DHEC inspectors observed several violations, which led to the issuance of the consent order. Among these were lack of protection of the system from contamination, no system map showing the location of the well, storage tank, and distribution lines, and lack of copies of bacteriological reports. Dowd was given two options under the consent order. The Company could either make required repairs and provide bacteriological reports, or it could transfer the system to a new owner. Peterson noted that Dowd has not complied with either option nor has the Company submitted a required business plan to DHEC.

Peterson further testified that if this Commission allowed Dowd to abandon the Isle of Pines system without a new owner being found, that the system's well should be properly closed out according to DHEC regulations to ensure that the abandoned well is not a source of contamination of the aquifer.

#### **FINDINGS OF FACT**

1. The Isle of Pines water system is owned by Dowd Water Systems, Inc., and has 20 customers, 5 being full-time and 15 being part-time.

2. The system has been cited for various deficiencies and violations by the South Carolina Department of Health and Environmental Control.

3. While Dowd Water Systems, Inc. maintains that it lacks the financial resources to remedy the cited deficiencies or to comply with DHEC regulations, no evidence was presented during the proceeding to confirm Dowd Water Systems, Inc.'s position.

4. The best alternative is for the Isle of Pines system to be interconnected with the Town of Chapin system.

5. An upgrade of the system and interconnection to the Town of Chapin will cost approximately \$103,000. At present no individual or entity has offered to pay this sum.

6. Dowd Water Systems, Inc. appears to continue to be offering inadequate service to its customers, but it is questionable whether the Company has the monetary resources to remedy the deficiencies. It has been noted that the Isle of Pines system already had an unsatisfactory Sanitary Survey from DHEC. This survey cited many of the same deficiencies as were cited in the present case by DHEC witness Peterson. *See* Concurring Opinion of Commissioner Atkins in Commission Order No. 2001-1103 at 13.

7. Dowd Water Systems, Inc. should be allowed to abandon the Isle of Pines system, but only after another viable entity has taken over the system and is operating it.

#### **CONCLUSIONS OF LAW**

1. Prior to abandonment of the Isle of Pines water system, Dowd must comply with the provisions of DHEC Regulation 61-71.10 and other applicable

regulations with regard to closing out the system's well, so as to minimize the chances for contamination of the aquifer.

2. Until the abandonment is finalized, the Commission Staff shall monitor the operation of the system as needed, in order to help guarantee and protect the public health.

3. Until the abandonment is finalized, the Company must make necessary and nominal repairs in order to keep the Isle of Pines water system functional and serving its customers, as well as to attempt to keep the system in compliance with State Regulations.

4. Because the financial circumstances of Dowd Water Systems, Inc. are unclear and in order to properly prepare testimony for the Rule to Show Cause herein ordered, the Commission Staff shall undertake a full financial audit of the Company in order to better determine the Company's actual financial condition.

5. By means of this Order, we also issue our Rule to Show Cause to the Company as to the following:

- a. The Company shall show cause as to why this Commission should not escheat Dowd's performance bond, pursuant to the procedures outlined in S.C. Code Ann. Section 58-5-720 (Supp. 2002). Under this statute, this Commission has the right, upon notice and hearing, to declare all or any part of the bond forfeited upon a determination by the Commission that the utility failed to provide service without just cause or excuse and that this failure has continued for an unreasonable length of time.
- b. The Company shall also show cause to this Commission as to why the Company should not be subject to fines and penalties pursuant to the provisions set out in S.C. Code Ann. Section 58-5-710 (Supp. 2002).

6. Accordingly, a hearing on the Rule to Show Cause shall be held on **Monday, March 10, 2003, at 11:00 AM** in the offices of the Commission. Pursuant to 26 S.C. Regs. 103-869(C)(Supp.2002), the Commission hereby orders that twenty-five copies of the direct testimony and exhibits of the Commission Staff shall be prefiled on or before **February 24, 2003**, and that twenty-five copies of the direct testimony and exhibits of Dowd Water Systems, Inc. shall be pre-filed on or before **March 3, 2003**. (Direct testimony and exhibits may be post-marked on these dates.) Also, any rebuttal testimony and exhibits of the Commission Staff shall be pre-filed on or before **March 5, 2003**, and any surrebuttal testimony and exhibits of Dowd Water Systems, Inc. shall be pre-filed on or before **March 7, 2003**. (Rebuttal testimony and exhibits and surrebuttal testimony and exhibits must be in the offices of the Commission and in the hands of the parties on these dates.) It should be noted that acceptance into the record of surrebuttal testimony and exhibits is subject to the discretion of the Commission. In addition, parties shall serve their pre-filed testimony and exhibits on all other parties of record as required by the Commission's Rules and Regulations. All parties are reminded that all witnesses must be present during any hearing in this matter at the call of the Chairman, or the Commission may decline to allow the witnesses' testimony to be read into the record of the proceeding, and/or may decline to allow the witnesses' exhibits to be entered into the evidence of the case.

Please take notice that any party requesting modification of this schedule must file a request for such modification with the Commission.

7. This Order shall remain in full force and effect until further Order of the Commission.

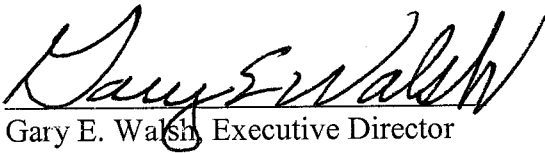
BY ORDER OF THE COMMISSION:



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Mignon L. Clyburn, Chairman

ATTEST:



Gary E. Walsh, Executive Director  
(SEAL)